

**HEARING  
BEGINS ON  
NEW TRIAL  
MOTION  
FOR LEO M.  
FRANK**

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Judge Hill Prevents  
Delay by

# Directing That Contentions Of Defense Be Read —Many Affidavits Presented

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Progress for several hours was made in the Frank case Thursday. Judge Ben H. Hill hearing in chambers the extraordinary motion for a new Trial based on newly discovered evidence. Court convened in one of the ante-rooms of the State Library at the capitol at 10 o'clock. At 12:30 it recessed, the entire motion and several affidavits bearing on it having been read. At 1:30 it convened again. Judge Hill announced his hours for hearing this motion would be from 9:30 to 12:30 and from 1:30 to 5 each day until the matter is concluded or interrupted.

The extraordinary motion has been published practically in full in the newspapers. It was read detail by detail Thursday morning, consuming about an hour and a half. It was followed by an affidavit from Leo M. Frank, the convicted man now in the tower under sentence of death as the murderer of Mary Phagan, in which Frank set forth that he has been imprisoned in the tower since April 29 and therefore has been deprived of the opportunity to learn earlier the alleged facts now set forth as newly discovered evidence.

ATTORNEYS' AFFIDAVITS.

A similar affidavit, but longer, was filed by each of the attorneys—Luther Z. Rosser, Reuben R. Arnold, Morris Brandon and Herbert Haas. Other affidavits were by Dr. H. F. Harris, Harllee Branch, Attorney William M. Smith, Attorney Leonard Haas, and Miss Jimmie Mayfield. The affidavit of Dr. Harris related to the hair found on the lathe and examined by him in comparison with Mary Phagan's hair, but in it, Dr. Harris did not swear he now thinks the hair was not that of Mary Phagan. The affidavit of Mr. Branch was that Dr. Harris told him in an interview some weeks ago that he (Harris) thought the hair was not that of Mary Phagan.

The affidavit of Attorney William M. Smith, Jim Conley's counsel, was that he went to the capitol one day to find Solicitor Dorsey and found him there with Dr. Dorsey, his brother, and Dr. Harris; that while he was waiting, Dr. Harris told Dr. Dorsey he (Dorsey) might examine the sections of hair if he wanted to; and that he thinks Dr. Harris told the Dorsey brothers the hair was not like that of Mary Phagan.

#### BLAME PUBLIC PREJUDICE.

In their own affidavits showing why they had not learned earlier of the newly discovered evidence, the attorneys said they were combated on every side by public prejudice and that it was difficult for them to learn anything at all. They quoted certain grounds of the original motion for a new Trial, denied by the supreme court, to which Judge Roan certified about the attitude and behavior of the crowds in the court during the Trial.

Leonard Haas read his own affidavit that he had read the brief filed by the solicitor general with the supreme court in this case, and found in there emphatic language by the solicitor stressing

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# HEARING BEGINS ON NEW TRIAL MOTION FOR LEO M. FRANK

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the importance of the discovery of the hair on the lathe.

ROOM CLEARED OF CROWD.

Half an hour before the hearing on the motion was due to begin the little study room of the State Library, where it was to be held was crowded with people. About ten minutes before the hour, 10 o'clock, set for the hearing, Deputy Sheriff Plennie Minor entered the room and cleared it of all persons who had no active connection with the matter or direct interest in it. This was in accordance with the judge's orders, he said. Almost immediately the room was filled again by others—lawyers, newspaper men, etc.—directly concerned with the hearing.

Judge Hill took his seat at 10 o'clock. Attorney Arnold answered his question, saying: "We are ready, but we want to know if the State has any counter showing. We want to know what it is to be."

### MOTION IS READ.

Solicitor Dorsey started to answer, but was interrupted by the judge, who declared no counter showing had been filed.

“Proceed with the reading of your motion, gentlemen,” said he. “You can make that point if any counter showing is presented.”

Leonard Haas began reading the extraordinary motion. It has been published practically in full in the newspapers. The first point made by it was that the hair found on a lathe on the second floor, and used by the State to show the crime was committed on the second floor, was not Mary Phagan’s hair. This point was based on the opinion of Dr. H. F. Harris as first expressed several weeks ago, Dr. Harris then stating that before the Trial he made a microscopical comparison of it with Mary Phagan’s hair and it was unlike that hair. The Defense discovered this after the Trial, said the motion.

### AFFIDAVITS ARE READ.

Mr. Haas continued reading, bringing out the Defense’s motion based on Miss Jimmie Mayfield’s affidavit that she saw the hair found on the lathe and believed it was not Mary Phagan’s; the similar affidavit by Mrs. Cora Falta; another by Miss Alice Marjorie McCord.

The next ground was concerned with Albert McKnight’s repudiation, since repudiated by the Negro, of the testimony he gave for the State at the Trial.

Next came the ground based on affidavit by Mrs. J. B. Simmons that she heard screams coming from the factory basement about 2:30 or 3 o’clock on the afternoon of the murder, combating Conley’s story that the girl’s body was moved to the basement by him and Frank before 1:30 o’clock.

The motion took up next Mrs. Ethel Harris Miller’s affidavit supporting the time alibi, that she was standing with Meyer

Lekhoff at Whitehall and Alabama streets at 1:10 o'clock on the afternoon of the murder and saw Frank's pass.

Dewey Hewell's affidavit that she was coached into testifying against Frank's character, was the ground for the next section of the motion.

Miss Ruth Robinson's affidavit said she was insulted by the solicitor with abusive language and charges; that the girls were coached by the solicitor and Miss Maggie Griffin as to what they should testify on the stand; that she heard Miss Griffing coaching Dewey Hewell in substantially the story Dewey told on the stand.

Succeeding grounds took up affidavits by Mrs. Mamie Edwards, formerly Mamie Kitchens; and Miss Marie Karst.

Succeeding grounds of the motion concerned other affidavits in which the affiants either repudiated testimony given at the original Trial, or made statements which strengthened Frank's time alibi that he was not in the pencil factory when the murder occurred. These affidavits were from Samuel A. Pardee, W. V. Green, Mary Rich, colored, and C. Brutus Dalton.

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# **METHODS OF THE POLICE ARE ATTACKED BY FRANK**

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# Condemns Detention of Wit- nesses as “Guests” at the Station House

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Just before the hour set for the hearing of the extraordinary motion for a new Trial Thursday morning a statement was made public by Leo M. Frank, commenting on the methods employed by the police and detectives, as evidenced by the recent detention of Albert McKnight following his reversion to the original story told by him at Frank’s Trial.

Leonard Haas, of counsel for Frank, announced that in view of the attitude of the police, the support of Detective William J. Burns, which has been completed and filed with the attorneys, would not be published at this time. He declared the evidence turned up by the detective might be used in the extraordinary motion for a new Trial, but that it was not deemed wise to publish the report in its entirety now in view of the manner in which the police were going after all Defense Witnesses, as evidenced by the McKnight arrest. It is possible the Burns evidence will be reserved for use in the event Frank gets a new Trial.

FRANK ASSAILS POLICE.

The statement issued by Frank follows:

“Editor, The Journal: weeks have brought to light many new revelations in the ‘Frank’ and the actions of the city detectives, under the strain of these revelations have been most interesting. I have been especially interested in their ‘secret’ performances in view of Chief Lanford’s public declaration that he would gladly co-operate with Mr. Burns in every possible way to ascertain the truth. This avowal on the part of the detective chief was most worthy, and yet his first public endeavor in this direction was the placing behind the bars of the Negro, Albert McKnight, who now resides at police headquarters as a ‘voluntary guest.’”

“Is it not passing strange that a Negro should, of his own volition, desire to be locked up at the station house? I venture the assertion that in the annals of police history no Negro has ever made such a demand. It stands to reason a Negro ordinarily has no love for the station house and its environment, and tries to avoid it all times. Is it not remarkable that a Negro should try to break into jail?”

“And what pretext is advanced for this Negro McKnight’s ‘visit’ to headquarters? Somebody is supposed to be pestering the Negro, and in order to give him ‘protection’ the police lock him up. Why not lock up the person who is doing the pestering? In future, if a man complains to the police that someone is trying to harm him, they will lock up the poor fellow who complains in order to ‘protect him.’ Protection indeed! And against what?”

#### BECOMES POLICE ‘GUEST.’

“McKnight had repudiated publicly before newspaper men the testimony given at the Trial, and that in no uncertain way. Two months thereafter we learn that the irresponsible Negro has made another affidavit and becomes the ‘guest’ of the police for protection and in payment therefor. Is it not rather this last story of McKnight’s that the police are desirous of protecting and not the prisoner? The truth needs no protection. It can even withstand third degree police methods!”



“Is it possible that the fair-minded public will longer be fooled and bamboozled by the cunning of our police and the detectives? Is it possible that the public of this city will stand for the brazen announcement from police headquarters that McKnight is being entertained as a ‘voluntary guest’ as a consideration for his apparent elasticity? It will be remembered that Chief Lanford said, as soon as the verdict in my case was published, that ‘police methods were vindicated.’ Does he think that having already fooled twelve men as to his iniquitous methods, he can continue to keep the public in the dark? To further show the strength of the so-called ‘police vindication’ it might be well for him to explain why Nina Formby, who, according to his own statement, was the last and final link in the chain of evidence around me, and who has since repudiated her statement in toto, is not residing at this time at the station house as a ‘voluntary guest’ for protection. Oh, the cunning of our great detective chief!”

“How long is the ‘opera bouffe’ performance to continue unchallenged? To every thinking man in this community the spectacle of the actions of the police and the detectives, in nursing and feeding Witnesses at the public’s expense, must be positively sickening.”

#### CONLEY ALSO A “GUEST.”

“Be it remembered also that Witness for the prosecution, Jim Conley, was also a ‘guest’ in the very apartment now occupied by Albert McKnight. It was there that Conley received his tutoring; it was there his outrageous story was nurtured and constructed. It is perfectly reasonable to suppose that the detectives believe that the Negro Albert McKnight also needs a bit of grooming and tutoring.”

“The object of legal investigation should be the ascertainment of truth. When reliable evidence points to the real solution of the case, why do not the detectives, in all fairness, follow these signposts of truth, instead of browbeating Witnesses and jailing them until they sign statements pleasing to the police?

Who are the Witnesses that under police guidance and nursing blow both hot and cold? They are State Witnesses vouched for at my Trial by the prosecution, and whose word we are to take at face value to damn and destroy human life at whatever sacrifice. Has the due process of law and the safeguarding of human life become such a triviality that it can be so flagrantly outraged?"

"Let us have the truth in this case, and that speedily! Let us play with all the cards on the table, for the issue involves human life. Let the detectives get right, lest they fall themselves into the grave which they have dug for another, for 'the truth is on the march' and all things hidden will come to light."

"Very truly yours,"

"LEO M. FRANK."

Detective Burns, although he has made a report, is still working on the case and says he will be on it to the end.

"I haven't had a single response to my offer of \$5,000 reward for satisfactory evidence of Frank's perversion or immorality," said Mr. Burns, Thursday morning."

"If Frank is anything like the man he has been painted, by those who would hang him, why doesn't some-one claim that reward?"

Mr. Burns asserts he has found no evidence against the condemned character. Moa week ago that he offered \$1,000 reward for each evidence and Wednesday he increased that offer to \$5,000.

Not a single claimant has appeared, Mr. Burns says, and this fact he regards as a tribute to Frank's character.

Mr. Burns is working just as energetically on the case now as before any report was made to the lawyers.

"There is plenty of work still to do," he said, "and every day is developing something to show the truth. I will continue on the case until it is definitely and finally decided."

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